

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**ATTACHMENT NO. 3****INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS****TITLE 8: Chapter 4, Subchapter 4, Article 17, Section 1626
of the Construction Safety Orders****Stairwells and Stairs****SUMMARY**

The Occupational Safety and Health Standards Board (Board) received a memorandum with attachments dated December 15, 1999 from the Division of Occupational Safety and Health (Division) requesting the Board to amend Section 1626 of the Construction Safety Orders (CSO) pertaining to handrail height requirements for temporary stairway handrails so that it will be up-to-date and consistent with the General Industry Safety Orders (GISO), Section 3214, Federal OSHA regulation 29CFR 1926.1052(c)(3) and American National Standard (ANSI) A10.18-1996. The Division's request was initiated as a result of questions from field personnel regarding the discrepancy in handrail height requirements between Sections 1626 and 3214.

The Division noted that ANSI construction safety requirements for construction stairways and other unprotected edges specify a railing height of 36 inches to 37 inches. Federal OSHA requires the handrails to be 36 inches in height. Section 1626 requires handrailings to be 30 inches to 34 inches above the tread nosing whereas Section 3214 specifies 34 inches to 38 inches. The Division recommended that Section 1626 be amended to read that handrailings, when used in conjunction with stairs, shall be not less than 34 inches or more than 38 inches above the tread nosing. This will bring this outdated section into accordance with other established codes.

Board staff reviewed the Division's request, as well as the above-mentioned ANSI requirements, Federal OSHA's standard, and Section 3214. Board staff agree with the Division that Section 1626 is outdated and should be amended.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Board staff propose to amend Section 1626 so that the specific requirements of the heights of handrailings are updated and brought into accordance with Federal, ANSI and State GISO standards. The proposed amendment is necessary to clearly indicate to the employer that there is no conflict in height requirements of handrailings, ensuring employees equal protection from potential serious workplace hazards.

Section 1626. Stairwells and Stairs.

This section consists of nine subsections and addresses the design of handrailings, use of toeboards and railings, illumination for stairways, housekeeping, etc.

Subsection (a) requires handrailings used in conjunction with stairs to be 30 inches to 34 inches above the tread nosing, constructed in substantial manner and free from protruding nails and splinters. This subsection also requires uprights to be not less than 2 inches by 4 inches or equivalent in cross section spaced not more than 8 feet apart and properly anchored with rail cross sections not less than 2 inches by 4 inches equivalent.

A revision is proposed to change the current 30 to 34 inch handrailing distance above the tread nosing to 34 to 38 inches consistent with Section 3214, ANSI A10.18-1996, and 29CFR 1926.1052(c)(3), which requires handrails to be located at heights exceeding those specified in Section 1626(a).

The revision is necessary to clearly indicate to the employer that consistent with existing GISO safety orders, Federal regulations and current national consensus standards, handrails on temporary stairways must be located at a designated elevation above the tread nosing to provide persons using the stairway with a secure grasp of the handrail to prevent a serious fall and employee injury.

DOCUMENTS RELIED UPON

1. Memorandum with attachments from John Howard, Chief, Division of Occupational Safety and Health to John MacLeod, Executive Officer, Standards Board, dated December 15, 1999.
2. American National Standards ANSI A10.18-1996 American National Standard for Construction and Demolition Operations – Safety Requirements for Temporary Floor Holes, Wall Openings, Stairways and Other Unprotected Edges.

These documents are available Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.